

105TH CONGRESS  
1ST SESSION

# S. 563

To limit the civil liability of business entities that donate equipment to nonprofit organizations.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 1997

Mr. SANTORUM (for himself and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To limit the civil liability of business entities that donate equipment to nonprofit organizations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. LIABILITY OF BUSINESS ENTITIES THAT DO-**  
4                       **NATE EQUIPMENT TO NONPROFIT ORGANIZA-**  
5                       **TIONS.**

6       (a) DEFINITIONS.—In this section:

7               (1) BUSINESS ENTITY.—The term “business  
8       entity” means a firm, corporation, association, part-  
9       nership, consortium, joint venture, or other form of  
10      enterprise.

1           (2) EQUIPMENT.—The term “equipment” in-  
2       cludes mechanical equipment, electronic equipment,  
3       and office equipment.

4           (3) GROSS NEGLIGENCE.—the term “gross neg-  
5       ligence” means voluntary and conscious conduct by  
6       a person with knowledge (at the time of the conduct)  
7       that the conduct is likely to be harmful to the health  
8       or well-being of another person.

9           (4) INTENTIONAL MISCONDUCT.—The term  
10      “intentional misconduct” means conduct by a person  
11      with knowledge (at the time of the conduct) that the  
12      conduct is harmful to the health or well-being of an-  
13      other person.

14          (5) NONPROFIT ORGANIZATION.—The term  
15      “nonprofit organization” means—

16            (A) any organization described in section  
17            501(c)(3) of the Internal Revenue Code of 1986  
18            and exempt from tax under section 501(a) of  
19            such Code; or

20            (B) any not-for-profit organization orga-  
21            nized and conducted for public benefit and op-  
22            erated primarily for charitable, civic, edu-  
23            cational, religious, welfare, or health purposes.

24          (6) STATE.—The term “State” means each of  
25      the several States, the District of Columbia, the

1 Commonwealth of Puerto Rico, the Virgin Islands,  
2 Guam, American Samoa, the Northern Mariana Is-  
3 lands, any other territory or possession of the Unit-  
4 ed States, or any political subdivision of any such  
5 State, territory, or possession.

6 (b) LIMITATION ON LIABILITY.—

7 (1) IN GENERAL.—Subject to subsection (c), a  
8 business entity shall not be subject to civil liability  
9 relating to any injury or death that results from the  
10 use of equipment donated by a business entity to a  
11 nonprofit organization.

12 (2) APPLICATION.—This subsection shall apply  
13 with respect to civil liability under Federal and State  
14 law.

15 (c) EXCEPTION FOR LIABILITY.—Subsection (b)  
16 shall not apply to an injury or death that results from  
17 an act or omission of a business entity that constitutes  
18 gross negligence or intentional misconduct, including any  
19 misconduct that—

20 (1) constitutes a crime of violence (as that term  
21 is defined in section 16 of title 18, United States  
22 Code) or act of international terrorism (as that term  
23 is defined in section 2331 of title 18) for which the  
24 defendant has been convicted in any court;

1           (2) constitutes a hate crime (as that term is  
2       used in the Hate Crime Statistics Act (28 U.S.C.  
3       534 note));

4           (3) involves a sexual offense, as defined by ap-  
5       plicable State law, for which the defendant has been  
6       convicted in any court; or

7           (4) involves misconduct for which the defendant  
8       has been found to have violated a Federal or State  
9       civil rights law.

10       (d) SUPERSEDING PROVISION.—

11           (1) IN GENERAL.—Subject to paragraph (2)  
12       and subsection (e), this Act preempts the laws of  
13       any State to the extent that such laws are inconsis-  
14       tent with this Act, except that this Act shall not pre-  
15       empt any State law that provides additional protec-  
16       tion for a business entity for an injury or death de-  
17       scribed in subsection (b)(1).

18           (2) LIMITATION.—Nothing in this Act shall be  
19       construed to supersede any Federal or State health  
20       or safety law.

21       (e) ELECTION OF STATE REGARDING NON-  
22       APPLICABILITY.—This Act shall not apply to any civil ac-  
23       tion in a State court against a business entity in which  
24       all parties are citizens of the State if such State enacts  
25       a statute—

- 1           (1) citing the authority of this subsection;
- 2           (2) declaring the election of such State that this
- 3   Act shall not apply to such civil action in the State;
- 4   and
- 5           (3) containing no other provisions.

